

REMARKS

The Applicants respectfully request reconsideration in view of the following remarks and amendments. Claims 1-6 and 9 are amended. Claims 7 and 8 are canceled. Accordingly, claims 1-6 and 9 are pending in the application.

I. Election of Claims

The Applicants note the Examiner's acknowledgement of the election of claims 1-9 of Group I and the species shown in Fig. 1-3 in the Response filed on September 14, 2007. Further, claims 10-20 are withdrawn from consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected claims to the invention.

II. Claim Objections

Claims 4-9 are objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim cannot depend from another multiple dependent claim. See MPEP § 608.01(n).

With respect to claim 4, this claim has been amended to depend on claim 3. Claims 5 and 6 have been amended to depend on claim 4. Claims 7 and 8 have been canceled and, therefore, the objection is moot. Claim 9 has been amended to depend on claim 6.

In light of the above amendments, the Applicants respectfully submit that claims 4-6 and 9 are complaint under 37 CFR 1.75(c) because they are now no longer a multiple dependent claim that depends on a multiple dependent claim. Accordingly, reconsideration and withdrawal of the objection to claims 4-6 and 9 are respectfully requested.

III. Claims Rejected Under 35 U.S.C. § 112

Claims 1-3 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particular point out and distinctly claim the subject matter which applicant regards as the invention. In claim 1, lines 4-6, the language "during the normal use" renders the claim indefinite since it implies that the structure of the device somehow changes during "normal" use and that the size of the side plates depend on a person using the device. In claim 3, line 3 it is unclear what "in a practical case fitted into them" means.

With respect to claim 1, the phrase “during the normal use” has been removed to clarify the claim language. With respect to claim 3, the phrase “in a practical case fitted into them” is removed to further clarify the claim language. Thus, in light of the amendments, the Applicants respectfully submit that claims 1 and 3 are now compliant under 35 U.S.C. § 112, second paragraph. Moreover, claim 2 is also compliant under 35 U.S.C. § 112, second paragraph, because this claim was rejected solely because of its dependency on claim 1. Accordingly, reconsideration and withdrawal of the rejection of claims 1-3 are respectfully requested.

IV. Claims Rejected Under 35 U.S.C. § 102

Claims 1-3 (as understood) are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 1,585,258 issued to Moore (hereinafter “Moore”). To establish an anticipation rejection the Examiner must show that the cited reference teaches each element of a claim.

With respect to claim 1, this claim has been amended to recite the elements of “A sport device that *is propelled by kicking away from a solid surface, comprising: a wheel (1) that can be rotated around an axle (3); foot plates (9, 10) extending outwards under the level of said axle (3) by said wheel (1) having two side plates (7, 8) fixed to the axle (3) of the wheel (1), and the foot plates (9, 10) rigidly fixed to a lower end range of the side plates (7, 8), the lower end range of the side plates being formed so that the side plates (7, 8) extend upwards, advantageously above the knee (21) of a person standing on one or both of the foot plates (9, 10) and so as to provide a friction-supporting function for the knee and/or lower leg*” (emphasis added). Support for the amendments may be found, for example, in Fig. 1-5 and pages 2-6 of the Specification. Moore fails to teach each element in claim 1 as discussed below.

In the following discussion, the Applicants submit that the device according to claim 1 and that Moore do not solve the same technical problem (in comparison with what is recited in the elements of claim 1) and, as a result, Moore will be shown as failing to teach each element of claim 1. According to the Moore, the technical problem to be solved is to perform a transformation from exclusively muscular strength of a user into the rotating movement of the wheel of the “monocycle,” as well as to provide steering of the monocycle. See Moore, page 1, lines 1-15. To accomplish this task, the monocycle includes POLE (14) which makes possible through exclusively by hand to propel the monocycle together with the RATCHET WHEEL (19) and PAWL (20). See Moore, page 1, lines 45-62. According to the Moore, using this

construction solved the problem of propelling the monocycle. Nevertheless, Moore also discloses that another task was to be solved, namely that the user should operate the POLE (14) as a steering means, which activity requires to hold the POLE (14) in a "normally erect position" (see lines 89-95). Moreover, Moore discloses in lines 100-106 of page 1 and lines 1-3 of page 2 that the mechanism of function of this "monocycle" is exactly defined as follows:

"It will be seen that as the pole 14 is pushed forward by the user there is a certain amount of lifting of the footrest and the weight of the user which takes place due to the relative arrangement of the parts, and as the pole is retracted there is a corresponding slight lowering of the footrest and body weight, which adds to the attractiveness of the device when used by children."

From this description, it should be concluded that for the use of the "monocycle," the PIVOTALLY CONNECTION (25) between the FOOT SUPPORT (21) and the YOKE (15) (that is the side walls of the yoke) is an indispensable part of the monocycle.

In contrast, taking into consideration that according to our invention the device can not be activated at all by hand, only exclusively by foot, that is the device can only be propelled and steered by foot (see e.g., the handlebar 13 shown in Fig. 1 and Fig. 2 according to the specification, too is exclusively a possible aid for beginners, for a short learning period). Therefore, one skilled in the art could not take any idea from the hand-propelled device according to the monocycle in Moore for solving the problems of an exclusively by foot propelled device of claim 1.

Thus, in light of the above distinctions, in contrast with the pivotal connections (25) between the yoke (15) and foot support (21) of Moore, claim 1 defines the rigid connection between the side plates (7, 8) and the foot plates, (9, 10) as well as the role of knee and/or lower leg in propelling and steering of the device using said side plates. The pivotal connections (25) at the "monocycle" of Moore exclude even the theoretical possibility of propelling it by foot as required in claim 1, because when the monocycle is moving forward the foot support (21) is moving forth and back and at the same time up and down, and can not serve as a support for kicking off from the base as required in claim 1.

Therefore, in view of at least the foregoing reasons, Moore fails to teach the elements of "A sport device that *is propelled by kicking away from a solid surface, comprising:* a wheel (1) *that can be rotated around an axle (3); foot plates (9, 10) extending outwards under the level of*

said axle (3) by said wheel (1) having two side plates (7, 8) fixed to the axle (3) of the wheel (1), and the foot plates (9, 10) rigidly fixed to a lower end range of the side plates (7, 8), the lower end range of the side plates being formed so that the side plates (7, 8) extend upwards, advantageously above the knee (21) of a person standing on one or both of the foot plates (9, 10) and so as to provide a friction-supporting function for the knee and/or lower leg” (emphasis added) as recited in claim 1. Accordingly, reconsideration and withdrawal of the rejection of claim 1 are respectfully requested.

Further, the Applicants submit these additional reasons for establishing the patentability of claim 1: the instant application (and what is claimed) and Moore are not in the same technical field. For example, the title of the Moore is "POLE MONOCYCLE", and in the first sentence of the specification this notion is more precise defined, namely: "A POLE PROPELLED MONOCYCLE", that is it is a velocipede having one wheel, which is to be propelled by hand. Therefore, the pole with handles is the "combined steering and propelling means" of the monocycle. The pole "...is adapted to be rocked or oscillated back and forth...", of course, by hand, "...thus causing the wheel to turn." In other words, propelling this monocycle must be caused by hand. (see also page 1, lines 45-48 of Moore)

In contrast with this monocycle and way of propelling and steering by hand, the present application as unambiguously defined also in the title of the specification and in the preamble of Claim 1 is a "FOOT-PROPELLED device." By comparing the above definitions the difference of the technical fields between the two solutions without any further argumentation is OBVIOUS, that the device propelled by hand according to the Moore and the foot-propelled device according to the invention do not belong to the same technical field. In reality, a device which can be propelled exclusively by foot could be regarded as being only in a far relationship on the worst with rollers, roller-skates or two-wheeled scooters. Propelling by hand always requires a POLE, and a PROPELLING MECHANISM at a ratchet wheel (19) and pawl (20) mechanism, as well as using of the muscular strength of the user of the monocycle. Consequently, the Applicants emphasize once more that the device according to claim 1 does not belong to the technical field of Moore.

With respect to claims 2 and 3, these claims depend on claim 1 and incorporate the limitations thereof. Thus, for at least the reasons discussed in connection with claim 1, Moore

fails to teach each element of claims 2 and 3. Accordingly, reconsideration and withdrawal of the rejection of claims 2 and 3 are respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. If the Examiner believes that a telephone conference would be useful in moving the application forward to allowance, the Examiner is encouraged to contact the undersigned at (310) 207 3800.

PETITION FOR EXTENSION OF TIME

Per 37 C.F.R. 1.136(a) and in connection with the Office Action mailed on October 16, 2007, the Applicants respectfully petition the Commissioner for a one (1) month extension of time, extending the period for response to February 16, 2008. The Commissioner is hereby authorized to charge payment to Deposit Account No. 02-2666 in the amount of \$60.00 to cover the petition filing fee for a 37 C.F.R. 1.17(a)(2) small entity. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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Dated: 2/19, 2008

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Melissa Stead 2-19, 2008